

IN THE SENATE

SENATE BILL NO. 1112

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO BASIC DAYCARE LICENSE; AMENDING SECTION 39-1101, IDAHO CODE, TO REVISE POLICY AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1102, IDAHO CODE, TO REMOVE A DEFINITION, TO DEFINE TERMS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1103, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1104, IDAHO CODE, TO PROVIDE A MINIMUM DAYCARE OPERATOR AGE, TO PROVIDE FOR HEALTH AND SAFETY INSPECTIONS, TO REVISE WHO CONDUCTS THE INSPECTION, TO REMOVE A PROHIBITION ON REINSPECTION CHARGES, TO PROVIDE A CODE REFERENCE, TO MAKE A TECHNICAL CORRECTION AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1105, IDAHO CODE, TO REVISE AN AGE FOR CRIMINAL HISTORY CHECKS FOR SPECIFIED INDIVIDUALS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1106, IDAHO CODE, TO REMOVE A PROVISION NOT REQUIRING CRIMINAL HISTORY CHECKS ON LICENSE RENEWAL, TO REQUIRE SPECIFIED LIMITED CRIMINAL HISTORY CHECKS ON LICENSE RENEWAL, TO REQUIRE CERTAIN CRIMINAL HISTORY CHECKS ON PERSONS UNDER EIGHTEEN YEARS OF AGE AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1107, IDAHO CODE, TO REVISE AUTHORITY FOR RULEMAKING, TO REMOVE A LICENSE FEE AND A RENEWAL FEE, TO PROVIDE FOR CALCULATION AND ALLOCATION FOR A LICENSE FEE AND A RENEWAL FEE, TO REMOVE CERTAIN ADJUSTMENTS TO LICENSE FEES, TO PROVIDE FOR PROVIDER COVERAGE OF A LICENSE FEE WITH AN EXCEPTION AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1108, IDAHO CODE, TO REMOVE A FIRE STANDARDS COMPLIANCE REQUIREMENTS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1109, IDAHO CODE, TO REQUIRE COMPLIANCE WITH A CERTAIN INTERNATIONAL FIRE SAFETY CODE, TO REMOVE COMPLIANCE WITH FIRE STANDARDS, TO REVISE SAFETY STANDARDS REQUIRED IN THE AREA OF THE DAYCARE FACILITY, TO REQUIRE AN ADULT BE PRESENT ON DAYCARE FACILITY PREMISES AT CERTAIN TIMES, TO PROVIDE FOR AND REVISE CERTAIN CHILD-STAFF RATIOS AND REQUIREMENTS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1110, IDAHO CODE, TO REVISE HEALTH STANDARDS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1113, IDAHO CODE, TO REVISE CRIMES PRECLUDING ELIGIBILITY FOR A LICENSE, TO PROVIDE FOR LICENSE INELIGIBILITY FOR A PERSON WHO HAS PLEADED GUILTY TO, BEEN FOUND GUILTY OF OR RECEIVED A WITHHELD JUDGMENT FOR CERTAIN CRIMES WITHIN A SPECIFIED TIME PERIOD, TO PROVIDE GROUNDS FOR DISCRETIONAL DENIAL, SUSPENSION OR REVOCATION OF A DAYCARE

FACILITY LICENSE, TO PROVIDE GROUNDS FOR MANDATORY DENIAL OR REVOCATION OF DAYCARE FACILITY LICENSE OR PRIVILEGE TO OPERATE A FAMILY DAYCARE HOME AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1114, IDAHO CODE, TO REMOVE REQUIREMENTS FOR AVAILABILITY FOR INSPECTION OF FIRE INSPECTION CERTIFICATE AND CRIMINAL HISTORY CHECKS, TO REVISE WHO IS TO PERFORM SAFETY INSPECTIONS, TO PERMIT INSPECTION OF FAMILY DAYCARE HOMES, TO REVISE AN ELECTION FOR COMPLIANCE WITH CHAPTER PROVISIONS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1115, IDAHO CODE, TO PROVIDE A DAYCARE FACILITY A CERTAIN GRACE PERIOD TO OBTAIN A LICENSE, TO REVISE A CODE REFERENCE, TO REVISE CRIMINAL SANCTIONS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1116, IDAHO CODE, TO REVISE THE DUTY OF THE COUNTY PROSECUTING ATTORNEY TO PROSECUTE VIOLATIONS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1117, IDAHO CODE, TO REVISE A PROVISION REGARDING AFFIRMANCE WITH CHAPTER PROVISIONS, TO MAKE A TECHNICAL CORRECTION AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-1118, IDAHO CODE, TO REVISE WHO SHALL SIGN A CERTAIN CERTIFICATE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-1119, IDAHO CODE, TO PROVIDE DEPARTMENT OF HEALTH AND WELFARE RESPONSIBILITY FOR EVALUATING WHETHER TRAINING IS ACCEPTABLE FOR LICENSURE, TO REVISE TRAINING HOUR REQUIREMENTS, TO PROVIDE CERTAIN LIMITATIONS ON PREMISES TRAINING AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING CHAPTER 11, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1120, IDAHO CODE, TO PROVIDE FOR NONDELEGABLE DUTIES AND RESPONSIBILITIES; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-1101, Idaho Code, be, and the same is hereby amended to read as follows:

39-1101. POLICY. It is hereby declared to be the policy of this state to establish a minimum statewide system for the protection of children in ~~day care centers~~ daycare facilities. This system is intended to establish minimum standards, while still leaving primary responsibility for evaluation and selection of ~~day care~~ daycare services with parents. The minimum standards established by this chapter shall not be construed as preempting more stringent regulation by county or city ordinance.

SECTION 2. That Section 39-1102, Idaho Code, be, and the same is hereby amended to read as follows:

39-1102. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho board of health and welfare.

(2) "Child" means a person less than ~~twelve~~ thirteen (~~12~~3) years of age.

(3) ~~"Day-care Daycare"~~ means care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood, ~~or marriage or legal guardianship~~ to the person or persons providing the care, in a place other than the child's or children's own home or homes.

(4) ~~"Day-care Daycare center"~~ means a place or facility providing ~~day-care daycare~~ for compensation for thirteen (13) or more children.

(5) "Daycare facility" means a place or facility providing daycare services for compensation to four (4) or more children not related to the provider.

(6) "Department" means the Idaho department of health and welfare.

~~(6) "District health board " means the district health boards of the respective public health districts as established in chapter 4, title 39, Idaho Code.~~

~~(7) "District health department" means the district health departments of the respective districts, created in section 39-409, Idaho Code.~~

~~(8) "Employee" means any person working for compensation in a facility that provides day-care daycare.~~

~~(9) "Family day-care daycare home" means a home, place, or facility providing day-care daycare for six (6) or fewer children.~~

~~(10) "Group day-care daycare facility" means a home, place, or facility providing day-care daycare for seven (7) to twelve (12) children.~~

(10) "Group size" means the maximum number of children in one (1) group or classroom.

(11) "Mixed age group" means a care group that includes children of multiple ages.

(12) "Ratio" means the number of staff required to supervise a certain number of children.

(13) "Single age group" means a care group that includes children of similar age.

(14) "Training" means continuing education in child development areas relating to child care. Training can be acquired through a variety of methods including, but not limited to, the viewing of audio visual materials, correspondence courses, community workshops and in-house training.

SECTION 3. That Section 39-1103, Idaho Code, be, and the same is hereby amended to read as follows:

39-1103. LICENSING AUTHORITY. The department ~~of health and welfare~~ is hereby authorized and directed to issue "basic ~~day-care daycare~~ licenses" as provided in this chapter. The department is authorized to establish procedures for issuing licenses to ~~day-care centers daycare facilities~~ which shall be maintained and operated in conformity with the standards authorized in this chapter. Nothing in this chapter shall be construed to limit or restrict the teaching of religious doctrines, values, or tenets in a facility licensed under the provisions of this chapter. The provisions of this chapter shall not apply to:

(1) The occasional care of a neighbor's, relative's or friend's child or children by a person not ordinarily in the business of ~~child-care providing daycare~~;

(2) The operation of a private school or religious school for educational purposes for children over four (4) years of age or a religious kindergarten;

(3) The provision of occasional care exclusively for children of parents who are simultaneously in the same building;

(4) The operation of day camps, programs and religious schools for less than twelve (12) weeks during a calendar year or not more often than once a week; or

(5) The provision of care for children of only one (1) immediate family in addition to the person's own children.

SECTION 4. That Section 39-1104, Idaho Code, be, and the same is hereby amended to read as follows:

39-1104. APPLICATION FOR LICENSE – FIRE SAFETY AND HEALTH INSPECTIONS. (1) Application. A person who wishes to operate a ~~day care center~~ daycare facility shall be a minimum of eighteen (18) years of age, shall submit an application, on the forms provided by the department, and shall obtain the required certificates of inspection as provided herein.

(2) Inspections. A person who wishes to operate a ~~day care center~~ daycare facility shall submit: (a) a certificate of a fire inspection of the proposed center, conducted by a fire department or fire district official, establishing compliance with the minimum standards specified in section 39-1109, Idaho Code; and (b) a health and safety inspection of the proposed ~~center~~ facility conducted by a qualified inspector as designated by the district health department, establishing compliance with the minimum standards specified in sections 39-1109 and 39-1110, Idaho Code.

(3) Continued compliance and reinspection. ~~Day care centers~~ Daycare facilities shall at all times maintain compliance with the ~~fire~~ safety and health requirements identified in this chapter. The department may cause any ~~day care center~~ daycare facility to be reinspected during the term of a license for ~~fire~~ safety and health compliance as determined necessary by the department. ~~No charge for any reinspection after the initial inspection in any license period shall be made to the day care center.~~

SECTION 5. That Section 39-1105, Idaho Code, be, and the same is hereby amended to read as follows:

39-1105. CRIMINAL HISTORY CHECKS. (1) The department shall obtain from the owner a criminal history check on the owners, operators and employees of a ~~day care center~~ daycare facility who have direct contact with children, and on all ~~volunteers and~~ other individuals ~~twelve~~ thirteen (123) years of age or older who have unsupervised direct contact with children ~~in~~ or are regularly on the premises of a ~~day care center~~ daycare facility. The criminal history check shall include the following for all persons subject to the provisions of this section who are eighteen (18) years of age or older:

- (a) Statewide criminal identification bureau;
- (b) Federal bureau of investigation (FBI) criminal history;
- (c) National crime information center; and
- (d) Statewide child abuse ~~register~~ registry.

(2) Criminal history checks on those persons under eighteen (18) years of age shall include a check of the juvenile justice records of adjudications of the magistrate division of the district court, county probation services and department ~~of health and welfare~~ records as authorized by the minor and his parent or guardian.

(3) Notwithstanding the provisions of section 39-1103, Idaho Code, which provide for exemption from the provisions of this chapter, any person who owns, operates or is employed by a private school for educational purposes for children four (4) through six (6) years of age or a private kindergarten shall comply with the provisions of this section.

SECTION 6. That Section 39-1106, Idaho Code, be, and the same is hereby amended to read as follows:

39-1106. ISSUANCE OF LICENSE – RENEWAL. (1) Upon receipt of the application, inspection certificates and the criminal history, the department shall, upon a finding of compliance with the minimum standards set forth in this chapter, issue a basic ~~day care~~ daycare license to the applicant. The license shall be valid for two (2) years and shall be posted in a conspicuous place at the ~~day care center~~ daycare facility.

(2) ~~After the criminal history check has been completed for any person, it shall not be necessary to repeat the check for renewal of a license. The department may, however, require the applicant for renewal of a license to declare on a form provided by the department that the applicant is in compliance with the original standards and conditions required for issuance of a license~~ The department shall obtain a limited criminal history check at the renewal of license on individuals required to complete a criminal history check in accordance with section 39-1105, Idaho Code. The renewal criminal history check shall include the following for all persons subject to the provisions of this section who are eighteen (18) years of age or older:

- (a) Statewide criminal identification bureau;
- (b) National crime information center; and
- (c) Statewide child abuse registry.

(3) Criminal history checks on those persons under eighteen (18) years of age shall include a check of the juvenile justice records of adjudications of the magistrate division of the district court, county probation services and department records as authorized by the minor and his parent or guardian.

(4) The department shall maintain a list of all licensees for public use.

SECTION 7. That Section 39-1107, Idaho Code, be, and the same is hereby amended to read as follows:

39-1107. FEES. (1) The ~~board~~ department shall establish by rule the maximum total fee to be assessed for a basic ~~day care~~ daycare license which shall ~~not exceed one hundred dollars (\$100.00)~~ be based on the number of children receiving daycare services in the daycare facility. The ~~board~~ department shall allocate the fee for fire, safety and health inspections, ~~and~~ for the criminal history check and for administrative processing. The ~~board~~ department shall also establish a renewal fee which shall not exceed ~~sixty dollars (\$60.00)~~ the actual cost of providing the license service.

(2) ~~The applicable adoption by the department of license fees in subsection (1) of under this section shall be reduced by twenty five percent (25%) for any day care facility which provides evidence that at least fifty percent (50%) of its staff is certified in infant/child first aid and pediatric rescue breathing~~ established based on the number of children receiving daycare services in the daycare facility by the provider and the cost of providing the license service. The daycare facility will cover the cost of all fees except where the Idaho child care program may cover those costs associated with certification for daycare facility participation in the Idaho child care program.

SECTION 8. That Section 39-1108, Idaho Code, be, and the same is hereby amended to read as follows:

39-1108. LOCAL OPTION. If a city or county, within its respective jurisdiction, has adopted an ordinance for regulation and/or licensing of ~~day-care~~ daycare services, and is enforcing its ordinance, then the provisions of this chapter shall not apply with such city or county unless the ordinance is subsequently repealed. To qualify for exemption, regulation of centers must include a criminal history check at least as stringent as the check required in section 39-1105, Idaho Code, compliance with ~~fire~~ safety standards at least as stringent as required in section 39-1109, Idaho Code, compliance with health standards at least as stringent as required in section 39-1110, Idaho Code, compliance with immunization requirements at least as stringent as required in section 39-1118, Idaho Code, and compliance with training requirements at least as stringent as required in section 39-1119, Idaho Code. Cities and counties are hereby granted authority and may adopt ordinances for regulation and/or licensing of ~~day-care~~ daycare services.

SECTION 9. That Section 39-1109, Idaho Code, be, and the same is hereby amended to read as follows:

39-1109. ~~FIRE~~ SAFETY STANDARDS. (1) ~~Day-care centers~~ Daycare facilities shall comply with the International Fire Code as adopted by Idaho and the following ~~fire~~ safety standards in the area of the ~~day-care center~~ daycare facility in which ~~day-care~~ daycare is provided:

- (a) ~~A~~Adequate fire and smoke alarms;
- (b) ~~A~~A functional telephone located on the daycare premises during the hours of operation;
- (c) ~~A~~Adequate fire extinguishers; ~~or other suitable arrangements for extinguishing fires; and~~
- (d) No fire standards developed pursuant to this chapter shall be more stringent than the standards contained in the International Fire Code as adopted by Idaho;
- (e) ~~A~~Adequate exits;
- (f) Firearms or weapons which are on the premises of a daycare facility must be kept in a locked container that is inaccessible to children while daycare attendees are present;
- (g) Pools, hot tubs, ponds and other bodies of water that are on the daycare facility premises must provide the following safeguards:
 - (i) The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following requirements:
 - 1. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, surround all sides of the pool and have a gate that is self-closing and that has a self-latching mechanism in proper working order out of the reach of young children;
 - 2. If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the door is opened;
 - 3. Furniture or other large objects must not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool; and

(ii) If the area surrounding a pool, hot tub, pond or other body of water is not fenced and locked, there must be a secured protective covering that will not allow access by a child;

(iii) Wading pools must be empty when not in use;

(iv) Children must be under direct supervision of an adult while using a pool, hot tub, pond or other body of water; and

(v) A minimum of a four (4) foot high fence must be present that prevents access from the daycare facility premises if the daycare premises are adjacent to a body of water; and

(h) The owner or operator of a daycare facility shall ensure that at all times children are present, at least one (1) adult on the premises has current certification in pediatric rescue breathing and first-aid treatment from a certified instructor.

(2) No fire standards developed pursuant to this chapter shall be more stringent than the standards contained in the International Fire Code, ~~without supplementation by any other standard or code as adopted by Idaho.~~

(3) An adult must be present at all times during business hours on the daycare facility premises.

(4) In addition to the ~~fire~~ safety standards identified in subsection (1) of this section, ~~fire~~ safety standards ~~may~~ shall be established by the department to govern the maximum allowable ratio of children to staff subject to the following restrictions:

(a) In no event shall the child-staff ratio require more than one (1) staff member to six (6) children for all children age ~~eighteen~~ twenty-four (~~18~~24) months or less; more than one (1) staff member to ~~twelve~~ eight (~~12~~8) children for all children above age ~~eighteen~~ twenty-four (~~18~~24) months but less than ~~five~~ three (~~5~~3) years; and more than one (1) staff member to ~~eighteen~~ ten (~~18~~10) children for all children three (3) years but less than five (5) years; more than one (1) staff member to eighteen (18) children for all children whose age is five (5) years or more; The maximum group size for all groups shall not exceed twice the number of children allowed for a single staff member.

Number of Children Allowed and Maximum Group Size Table

<u>Number of required staff</u>	<u>Children: birth to twenty-four (24) months</u>	<u>Children: above twenty-four (24) months but less than three (3) years</u>	<u>Children: three (3) years but less than five (5) years</u>	<u>Children: five (5) years or more</u>
<u>1</u>	<u>6</u>	<u>8</u>	<u>10</u>	<u>18</u>
<u>2</u>	<u>12</u>	<u>16</u>	<u>20</u>	<u>36</u>
<u>Maximum group size</u>	<u>12</u>	<u>16</u>	<u>20</u>	<u>36</u>

(b) ~~No factors other than fire safety may be considered in establishing child staff ratios; The maximum ratio of children to staff in mixed age groups shall be determined by the age of the youngest child in attendance.~~

(c) ~~All~~ Only adults on the premises providing direct supervision to the children shall be counted as staff for purposes of computing a child-staff ratio; ~~and.~~

- (d) Each child shall count as one (1) child for purposes of computing a child-staff ratio.
- (e) Group daycare facilities shall have a maximum allowable child-staff ratio based on the age of the children in attendance. The maximum group size is twelve (12) children. If more than two (2) children are in attendance under the age of two (2) years, the maximum group size shall be ten (10) children. If three (3) or more children under the age of two (2) years are in attendance, the maximum group size shall be nine (9) children.

Group Daycare Facility Ratio and Maximum Group Size Table

	<u>No children under the age of two (2) years</u>	<u>No more than two (2) children under the age of two (2) years</u>	<u>Three (3) or more children under the age of two (2) years</u>
<u>Maximum group size</u>	<u>12</u>	<u>10</u>	<u>9</u>

- (f) Family daycare homes shall not provide daycare services for more than six (6) children at a time.

SECTION 10. That Section 39-1110, Idaho Code, be, and the same is hereby amended to read as follows:

39-1110. HEALTH STANDARDS. ~~Day care centers~~ Daycare facilities shall comply with the following health standards:

(1) Food for use in ~~day care centers~~ daycare facilities shall be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed and sanitized prior to use to prevent contamination;

(2) All food that is to be served in ~~day care centers~~ daycare facilities shall be stored in such a manner that it is protected from potential contamination;

(3) Diaper changing shall be conducted in such a manner as to prevent the spread of communicable diseases;

(4) Sleeping and play areas, restrooms and fixtures shall be maintained in a safe, sanitary condition;

(5) Children and facility personnel shall be provided with individual or disposable towels for handwashing and the handwashing area shall be equipped with soap and hot and cold running water;

(6) The water supply, where the source is other than a public water system, must be approved in accordance with the rules adopted by the district board of health department;

(7) Medicines, cleaning supplies and other hazardous substances must be stored out of reach of children;

(8) ~~A telephone or some type of emergency communication system is required; and~~ Smoking or alcohol consumption is prohibited on the premises of a daycare facility during the daycare facility's hours of operation; and

(9) Representatives of ~~the district health department~~ and safety inspectors shall not be denied access to a ~~day care center~~ daycare facility during hours of operation for purposes of control of communicable disease or inspection.

SECTION 11. That Section 39-1113, Idaho Code, be, and the same is hereby amended to read as follows:

39-1113. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) A license may be denied, suspended or revoked by the department if the department finds that the applicant or licensee does not comply with the provisions of this chapter.

(2) No person who pleads guilty to, has been found guilty of or received a withheld judgment for any offense involving neglect or any physical injury to, or other abuse of a child including the following offenses or a similar provision in another jurisdiction, shall be eligible for a license under the provisions of this chapter:

(a) Injuring a child, felony or misdemeanor, section 18-1501, Idaho Code.

(b) The sexual abuse of a child under sixteen ~~(16)~~ years of age, section 18-1506, Idaho Code.

(c) The ritualized abuse of a child under eighteen ~~(18)~~ years of age, section 18-1506A, Idaho Code.

(d) The sexual exploitation of a child, section 18-1507 or 18-1507A, Idaho Code.

(e) Sexual abuse of a child under the age of sixteen years, section 18-1506, Idaho Code.

~~(f)~~ Lewd conduct with a child under the age of sixteen ~~(16)~~ years, section 18-1508, Idaho Code.

~~(fg)~~ The sale or barter of a child for adoption or other purposes, section 18-1511, Idaho Code.

~~(gh)~~ Murder in any degree, section 18-4001 or 18-4003, Idaho Code.

(i) Assault with intent to murder, section 18-4015, Idaho Code.

~~(h)~~ Voluntary manslaughter, section 18-4006, Idaho Code.

~~(k)~~ Rape, section 18-6101 or 18-6108, Idaho Code.

~~(j)~~ Incest, section 18-6602, Idaho Code.

~~(km)~~ Forcible sexual penetration by use of foreign object, section 18-6608, Idaho Code.

(n) Abuse, neglect or exploitation of a vulnerable adult, section 18-1505, Idaho Code.

(o) Aggravated, first degree, second degree and third degree arson, sections 18-801 through 18-805, Idaho Code.

(p) Crimes against nature, section 18-6605, Idaho Code.

(q) Kidnapping, sections 18-4501 through 18-4503, Idaho Code.

(r) Mayhem, section 18-5001, Idaho Code.

(s) Poisoning, section 18-4014 or 18-5501, Idaho Code.

(t) Possession of sexually exploitative material, section 18-1507A, Idaho Code.

(u) Robbery, section 18-6501, Idaho Code.

(v) Stalking in the first degree, section 18-7905, Idaho Code.

(w) Video voyeurism, section 18-6609, Idaho Code.

(x) Enticing of children, section 18-1509 or 18-1509A, Idaho Code.

(y) Inducing individuals under eighteen years of age into prostitution, section 18-5609, Idaho Code.

(z) Inducing person under eighteen years of age to patronize a prostitute, section 18-5611, Idaho Code.

(aa) Any felony punishable by death or life imprisonment.

(bb) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701, Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.

(3) No person who has pleaded guilty to, been found guilty of or received a withheld judgment for any offense involving neglect or any physical injury to, or other abuse of a child,

including the following offenses or a similar provision in another jurisdiction shall be eligible for a license for a period of five (5) years under the provisions of this chapter.

- (a) Aggravated assault, section 18-905, Idaho Code.
- (b) Aggravated battery, section 18-907(1), Idaho Code.
- (c) Burglary, section 18-1401, Idaho Code.
- (d) Felony theft, sections 18-2403 and 18-2407(1), Idaho Code.
- (e) Forgery of a financial transaction card, section 18-3123, Idaho Code.
- (f) Fraudulent use of a financial transaction card or number, section 18-3124, Idaho Code.
- (g) Forgery or counterfeiting, chapter 36, title 18, Idaho Code.
- (h) Misappropriation of personal identifying information, section 18-3126, Idaho Code.
- (i) Insurance fraud, section 41-293, Idaho Code.
- (j) Damage to or destruction of insured property, section 41-294, Idaho Code.
- (k) Public assistance fraud, section 56-227, Idaho Code.
- (l) Provider fraud, section 56-227A, Idaho Code.
- (m) Attempted strangulation, section 18-923, Idaho Code.
- (n) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701, Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.

(4) A daycare facility license may be denied, suspended or revoked by the department if the department finds any of the following:

- (a) Illegal activity has occurred on the daycare facility premises;
- (b) The activity, use or privilege authorized under this chapter is being or has been exercised so as to be detrimental to the public health, safety or welfare;
- (c) A person required to undergo a criminal history check under section 39-1105, Idaho Code, who pleads guilty to, has been found guilty of or received a withheld judgment for any offense involving neglect, any physical injury to or other abuse of a child, as provided under the provisions of this chapter; or
- (d) A substantiated complaint that the health or safety of a child is threatened due to the child's enrollment in the daycare facility.

(5) A daycare facility license or privilege to operate a family daycare home shall be denied or revoked if a registered sex offender resides on the premises where daycare services are provided.

(36) The denial, suspension or revocation of a license under this chapter may be appealed to the district court of the county in which the affected ~~day care center~~ daycare facility is located and the appeal shall be heard de novo in the district court.

SECTION 12. That Section 39-1114, Idaho Code, be, and the same is hereby amended to read as follows:

39-1114. LIMITED APPLICATIONS. ~~Any person providing day care in a group day care facility shall not be required to be licensed, but shall comply with the requirements of section 39-1105, Idaho Code, for a criminal history check and shall obtain a fire inspection certificate establishing compliance with the standards provided in section 39-1109, Idaho Code.~~ The fire inspection for family daycare homes and group day care daycare facilities may be conducted by the district department designated health department and safety inspectors where

1 necessary. The fire inspection certificate and the criminal history check, ~~if one is required~~, shall
2 be available for inspection on the premises.

3 A ~~group day care facility or family day care~~ daycare home providing care for fewer than
4 four (4) children may elect to comply with the provisions of this chapter and upon a finding of
5 compliance by the department, shall receive a basic ~~day care~~ daycare license.

6 SECTION 13. That Section 39-1115, Idaho Code, be, and the same is hereby amended to
7 read as follows:

8 39-1115. MISDEMEANOR. (1) It shall be a misdemeanor to operate a ~~day care center~~
9 daycare facility within this state without first obtaining a basic ~~day care~~ daycare license from
10 the department or to operate a ~~day care center~~ daycare facility without posting a basic ~~day~~
11 ~~care~~ daycare license in a conspicuous place. A copy of this chapter shall be available on the
12 premises at all times for staff and parents to read on request.

13 (2) If a daycare facility is found to be operating without a license, the licensing agency
14 may grant a grace period of no more than sixty (60) days to allow the daycare facility to come
15 into compliance with the provisions of this chapter.

16 (3) It shall be a misdemeanor to operate a ~~group day care facility~~ family daycare home
17 caring for four (4) or more children without obtaining the ~~certificates~~ criminal history check
18 required in section 39-111405, Idaho Code; provided, that in the event of an initial citation for
19 violation of the provisions of this subsection, if a person makes the applications required within
20 twenty (20) days, the complaint shall be dismissed. Operation of a ~~group day care facility~~
21 family daycare home caring for four (4) or more children after ~~denial of the certificates~~ failure
22 to pass a required criminal history check shall be a misdemeanor.

23 (34) It is a misdemeanor for any person to provide ~~day care~~ daycare services if such
24 person has been found guilty in this state's courts, in any other state's courts, or in any federal
25 court, of any offense listed under the provisions of section 39-1113, Idaho Code.

26 SECTION 14. That Section 39-1116, Idaho Code, be, and the same is hereby amended to
27 read as follows:

28 39-1116. PROSECUTION. It shall be the duty of the prosecuting attorney of the county
29 in which the ~~day care center or group day care~~ daycare facility is located to prosecute violations
30 of the provisions of this chapter.

31 SECTION 15. That Section 39-1117, Idaho Code, be, and the same is hereby amended to
32 read as follows:

33 39-1117. NO LIABILITY TO STATE OR POLITICAL SUBDIVISIONS. The issuance
34 of a license or certificate pursuant to this chapter shall not constitute a representation of
35 affirmance to any person that the ~~day care center~~ daycare facility to which a license is issued
36 or a ~~group day care facility to which a certificate is issued~~ family daycare home is free from
37 risk with regard to the standards in this chapter. The state, ~~and~~ its political subdivisions or any
38 employees or agents of the state or its political subdivisions shall not be liable for nor shall a
39 cause of action exist for any loss or damage based upon the failure of any person to meet the
40 standards contained in this chapter.

SECTION 16. That Section 39-1118, Idaho Code, be, and the same is hereby amended to read as follows:

39-1118. IMMUNIZATION REQUIRED. (1) Within fourteen (14) days of a child's initial attendance at any licensed ~~day care~~ daycare facility, the parent or guardian shall provide a statement to the operator of the ~~day care~~ daycare facility regarding the child's immunity to certain childhood diseases. This statement shall provide a certificate signed by a physician or a representative of a ~~health~~ district health department, that the child has received, or is in the process of receiving immunizations as specified by the board ~~of health and welfare~~; or can effectively demonstrate, through verification in a form approved by the department ~~of health and welfare~~, immunity gained through prior contraction of the disease.

Immunizations required and the manner and frequency of their administration shall be as prescribed by the ~~state board of health and welfare~~ and shall conform to recognized standard medical practices in the state. The ~~state board of health and welfare~~ shall promulgate appropriate rules ~~and regulations~~ for the enforcement of the required immunization program and specify reporting requirements of ~~day care centers~~ daycare facilities, pursuant to the provisions of chapter 52, title 67, Idaho Code.

(2) Any minor child whose parent or guardian has submitted to officials of a licensed ~~day care~~ daycare facility a certificate signed by a physician licensed by the state board of medicine stating that the physical condition of the child is such that all or any of the required immunizations would endanger the life or health of the child shall be exempt from the provisions of this section. Any minor child whose parent or guardian has submitted a signed statement to officials of the ~~day care~~ daycare facility stating their objections on religious or other grounds shall be exempt from the provisions of this section.

SECTION 17. That Section 39-1119, Idaho Code, be, and the same is hereby amended to read as follows:

39-1119. TRAINING REQUIREMENTS. The department is responsible for evaluating whether or not training is acceptable for licensure. The owner or operator of a ~~day care center~~ daycare facility shall ensure that each employee receives ~~four~~ eight (48) hours of ongoing training every twelve (12) months after the employee's hire date, with not more than four (4) hours completed through internal training performed on the premises of the daycare facility.

SECTION 18. That Chapter 11, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-1120, Idaho Code, and to read as follows:

39-1120. NONDELEGABLE DUTIES AND RESPONSIBILITIES. The department's duties and responsibilities under this chapter are nondelegable.

SECTION 19. This act shall be in full force and effect on and after January 1, 2010.